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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,046	12/17/1999	TOSHIYUKI OHKUBO	1232-4605	9718

27123 7590 08/24/2005

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EXAMINER	
WHIPKEY, JASON T	

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/466,046	OHKUBO, TOSHIYUKI	
	Examiner	Art Unit	
	Jason T. Whipkey	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *41-68* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *45-48,50,56-60,63 and 64* is/are allowed.

6)☒ Claim(s) *41,42,49,51,52,55,61,62,65 and 66* is/are rejected.

7)☒ Claim(s) *43,44,53 and 54* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 December 1999* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 41, 49, 51, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura (U.S. Patent No. 4,890,166) in view of Shiokawa (Japanese Publication No. 60-220671).

Regarding **claims 41 and 51**, Kimura discloses an image capture apparatus (see Figure 1), including:

an image capture unit (CCD sensor 8) adapted to capture an image using an image pickup element;

a switch (SW2) adapted to instruct the image capture apparatus to start a recording process of recording a captured images in a recording unit (see column 4, lines 3-4); and

> a control unit (sequence control circuit 2) adapted to control the apparatus using a first exposure value (EV1) indicating an exposure of an image captured (see column 4, lines 19-21) before the switch is operated (as shown in the flowchart of Figure 3, EV1 is calculated in step 102, which is prior to the closing of SW2 in step 105) and a second exposure value (EV2) indicating an exposure of an image captured after the switch is operated (namely, in step 109).

While Kimura calculates the difference between the two exposure values prior to recording an image (see step 110), Kimura is silent with regard to controlling the recording process based on the two exposure values.

Shiokawa discloses an electronic still camera that prevents the recording of a picture when an exposure value is too far out of range from a prescribed exposure value (see abstract).

An advantage of controlling recording of an image based on two exposure values is that storage space will not be wasted by storing images with an unstable or unacceptable exposure level. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Kimura's imaging device control recording based on two exposure values.

Regarding **claims 49 and 55**, Kimura is silent with regard to stopping the recording process based on the two exposure values.

Shiokawa discloses an electronic still camera that prevents the recording of a picture when an exposure value is too far out of range from a prescribed exposure value (see abstract).

An advantage of controlling recording of an image based on two exposure values is that storage space will not be wasted by storing images with an unstable or unacceptable exposure

level. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Kimura's imaging device control recording based on two exposure values.

4. Claims 42, 52, 61, 62, 65, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Shiokawa and further in view of Aihara (Japanese Patent Application Publication No. 62-023025).

Claims 42 and 52 may be treated like claims 41 and 51, respectively. However, Shiokawa is silent with regard to notifying a user based on a difference between the first and second values.

Aihara discloses a camera that compares two brightness levels calculated while the camera is in an auto-exposure mode (see abstract). Display driving circuit 35 is used to warn a user when such a difference is greater than a predetermined amount (see abstract).

As stated in the abstract, an advantage of performing such a warning is that an improper exposure may be prevented. For this reason, it would have been obvious to have Kimura's and Shiokawa's imaging devices provide an exposure warning to a user.

Regarding **claims 61 and 65**, Kimura discloses an image capture apparatus, comprising:

an image capture unit (CCD sensor 8) adapted to capture an image using an image pickup element;

a switch (SW2) adapted to instruct the image capture apparatus to start a recording process of recording a captured image in a recording unit (see column 4, lines 3-4);

wherein the image capture apparatus operates using a first exposure value (EV1) indicating an exposure of an image captured (see column 4, lines 19-21) before the switch is operated (as shown in the flowchart of Figure 3, EV1 is calculated in step 102, which is prior to the closing of SW2 in step 105) and a second exposure value (EV2) indicating an exposure of an image captured after the switch is operated (namely, in step 109).

Kimura is silent with regard to determining whether to issue a warning to a user based on the exposure values.

Aihara discloses a camera that compares two brightness levels calculated while the camera is in an auto-exposure mode (see abstract). Display driving circuit 35 is used to warn a user when such a difference is greater than a predetermined amount (see abstract).

As stated in the abstract, an advantage of performing such a warning is that an improper exposure may be prevented. For this reason, it would have been obvious to have Kimura's and Shiokawa's imaging devices provide an exposure warning to a user.

Regarding **claims 62 and 66**, Kimura is silent with regard to stopping the recording process based on the two exposure values.

Shiokawa discloses an electronic still camera that prevents the recording of a picture when an exposure value is too far out of range from a prescribed exposure value (see abstract). An advantage of controlling recording of an image based on two exposure values is that storage space will not be wasted by storing images with an unstable or unacceptable exposure level. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Kimura's imaging device control recording based on two exposure values.

Allowable Subject Matter

5. Claims 43, 44, 53, and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

No prior art could be located that teaches or fairly suggests an image capture apparatus that detects a first white balance value before an image capture switch is activated and a second white balance value after an image capture switch is activated, wherein the two white balance values are used to control a recording process.

6. Claims 45-48, 50, and 56-60 are allowed.

No prior art could be located that teaches or fairly suggests an image capture apparatus that detects a first white balance value before an image capture switch is activated and a second white balance value after an image capture switch is activated, wherein the two white balance values are used to control a recording process.

7. Claims 63, 64, 67, and 68 are allowed.

No prior art could be located that teaches or fairly suggests an image capture apparatus that detects a first white balance value before an image capture switch is activated and a second white balance value after an image capture switch is activated, wherein the two white balance values are used to control a user warning process.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran, can be reached at (571) 272-7382. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

JTW
August 17, 2005

THAI TRAN
PRIMARY EXAMINER